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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,697	10/11/2001	Mikhail Boroditsky	03493.00175	6290
26652	7590	11/15/2005	EXAMINER	
AT&T CORP. P.O. BOX 4110 MIDDLETOWN, NJ 07748			WANG, QUAN ZHEN	
			ART UNIT	PAPER NUMBER
			2633	

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/973,697

Applicant(s)

BORODITSKY ET AL.

Examiner

Quan-Zhen Wang

Art Unit

2633

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-19.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 3. NOTE: The amended claim 1 further includes the newly added limitations "... where some of the nodes service a plurality of users and at least one node couples one ring of said network to another ring of said network"; and "... packet that contains a plurality of constituent packets that are not constrained to all have a particular node of the network as the ultimate destination of the constituent packets". The newly added limitation requires further consideration /search.

Continuation of 11. does NOT place the application in condition for allowance because: Former dependent claim 5 now is amended into an independent claim and it further includes the limitations "a method for providing high connectivity communication over a TDM and WDM packet-switched optical ring network having a plurality of nodes connected thereto comprising the steps of: creating, at node A of said plurality of nodes, a composite packet; and routing over said network said composite packet by said step of adding, where the step of creating further comprising the steps of: ...". The newly added limitations to the amended claim 5 can be found in claim 1 prior to the current amendment. Therefore, the rejection to claim 1 prior to the current amendment applies to the amended claim 5. Applicant's arguments have been fully considered but they are not persuasive. Applicant argues that Zang and Sasayama do not teach "composite packets", "ring networks", and "the Zang et al. reference is not enabling". Examiner respectfully disagrees with the Applicant. Applicant admits that Zang teaches the "photonic slot" concept. Zang further teaches that a photonic slot spans all of the WDM channels (wavelengths) in the network. Therefore, the "photonic slot" reads the claimed invention "composite packet". Zang also discloses a WDM mesh network, which comprises a ring network (for example, the ring formed by the nodes 0, 1, and 5 in fig. 2). Regarding the enablement of Zang, since the paper was presented in an international technical conference, Applicant's mere claim that the reference is "not enabling" does not disqualify the reference as a prior art for an obviousness rejection. The focus regarding the instant application is the patentability of the Applicant's instant application. In addition, Sasayama discloses to decompose the dropped composite packet into constituent packets; Adams teaches to further distribute packets dropped from the packet backbone network by using WDM techniques to a plurality of nodes; Mizrahi disclose an optical add-drop multiplexer employing fiber Bragg gratings. The combination of the listed references teaches all the limitations in the claimed invention. Therefore, the claimed invention is not in the condition for allowance and the rejection with regard to claims 1-19 still stands.


M. R. SEDIGHIAN
PRIMARY EXAMINER